IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.3492 OF 2006

Sumita Sachin Honavar ...Applicant
vs.
State of Maharashtra and others ...Respondents

Mr.Clive D'Souza for the Applicant
Mr.Rajesh More, A.P.P. for State

CORAM: A.S.OKA,J.
DATE : OCTOBER 7,2006.

JUDGMENT:

1. Heard Advocate for the Applicant. Rule. Learned A.P.P. waives service for the first Respondent. Considering the nature of relief claimed in this Application, service of rule to other Respondents is dispensed with.

2. The Applicant filed a complaint against the third to sixth Respondents alleging commission of offence under sections 498-A, 406 read with section 34 of the Indian Penal Code. The Applicant is the wife of the second Respondent. A Petition was filed by the second Respondent in the Family court at Mumbai. On 16th September 2006, by a decree of divorce, the marriage solemnised between the Applicant and the second Respondent has been dissolved. The decree of divorce was by mutual consent. The issue regarding maintenance and custody of minor child are also decided in the said Petition by the Family court. The consent terms were filed by the Applicant and the second Respondent before the Family court. Clause 8 of the consent terms reads thus :

"8) The respondent hereby undertakes to withdraw all the civil and criminal cases filed against the

petitioner including cases under Section 498-A of I.P.C. which is pending at 22nd Metropolitan Magistrate Court, Andheri, Family Court Appeal and Writ Petitions pending at the High Court, Mumbai, the cases filed by respondent's father against petitioner deposits the amount of Rs.8,00,000/- at Family Court, Mumbai."

3. In view of the overall settlement between the Applicant and the second Respondent, on the basis of assurance given by the Applicant before the Family Court, the present Application under section 482 of the Code of Criminal Procedure, 1973 has been filed for quashing the case on the basis of F.I.R. registered by the Applicant.

4. It is obvious that the F.I.R. was filed as a result of matrimonial dispute between the Applicant and the second Respondent. Now, there is overall settlement. The present Petition is filed by the Applicant who is the first informant. Thus, it is obvious that continuation of criminal case will cause unnecessary harassment to both the parties. Hence, a case is made out for quashing the proceeding. Accordingly, Rule is made absolute in terms of prayer clause (a).

5. So far as prayer (b) is concerned, liberty is granted to the Applicant to make appropriate Application before the appropriate authority.

JUDGE